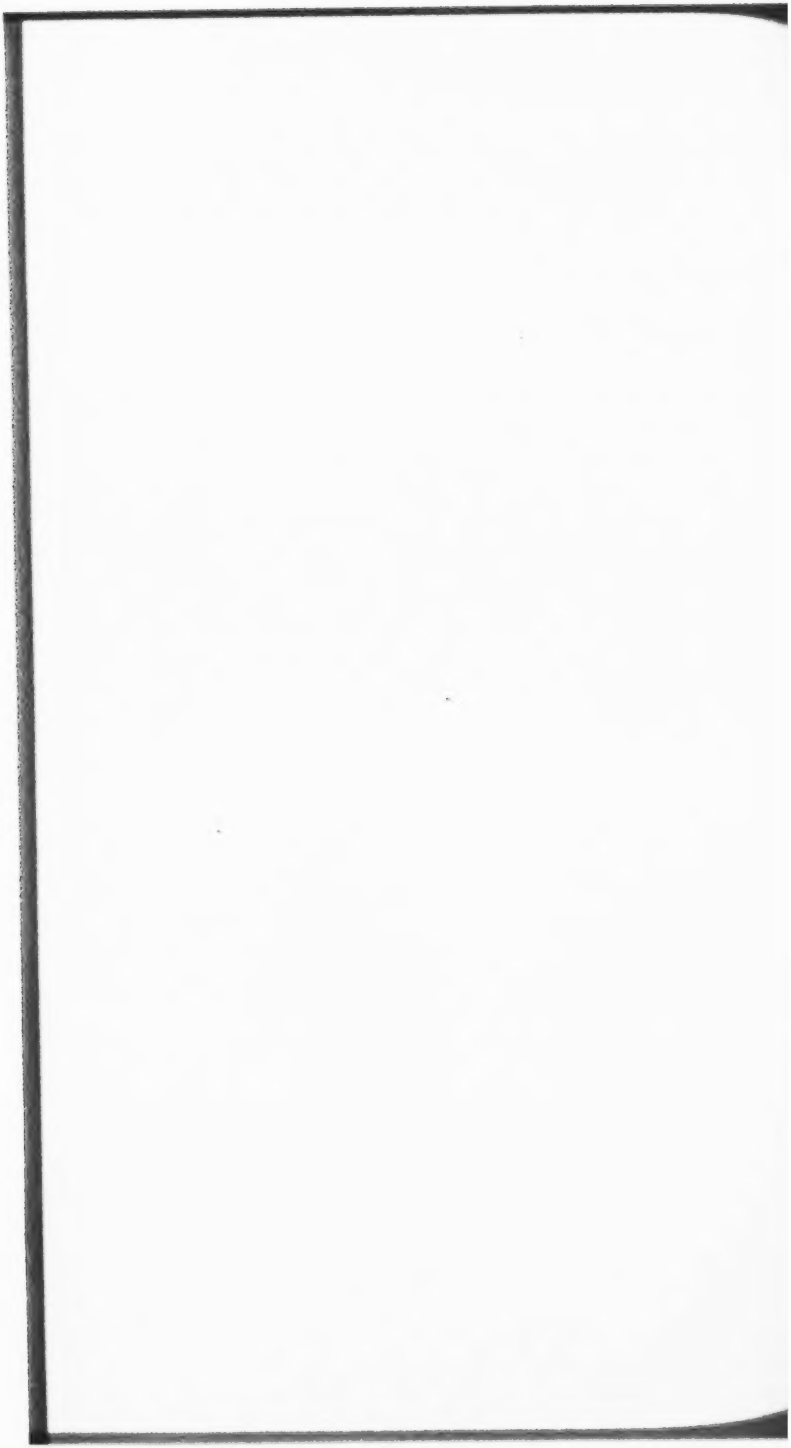

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MICHAEL RODAK, JR.,

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973.

No. 73-1482

EVO R. MANZARDO, ET AL.,
Petitioners,

vs.

THE PULLMAN COMPANY, ET AL.,
Respondents.

PETITION FOR REHEARING.

MURRAY B. WOOLLEY,
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Gunthorp-Warren Printing Company, Chicago • 346-1717

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Now comes Evo Manzardo, et al, by their attorneys, and petitions this Court for an order vacating its previous order denying the Petition for Certiorari and granting a rehearing of this cause. In support of this Petition, appellant states as follows:

THE COURT'S ATTENTION IS DIRECTED TO THE PETITION FOR CERTIORARI FILED HEREIN IN THE MATTER OF WESTERMAYER, ET AL. V. PULLMAN COMPANY, WHICH PETITION INVOLVES SUBSTANTIALLY THE SAME FACTS AS PRESENTED TO THE COURT IN MANZARDO, ET AL. V. PULLMAN COMPANY, ET AL.

The Seventh Circuit Court of Appeals denied Westermayer's appeal affirming the holding of the District Court for the Northern District of Illinois that it lacked jurisdiction in that the appellants had made no bona fide effort to exhaust their internal union remedies. This is in spite of the fact that the District Court for the Eastern District of Missouri, 72-C-166-3 on October 13, 1972 in the same case had concluded 'that it would be wholly

futile to require plaintiffs to take their complaint to t
. . . before seeking relief in this Court." The Court
cluded that "it has jurisdiction over the subject ma
action under Section 1337 of Title 28 of the United Sta
The Missouri District Court also concluded that th
Adjustment Board did not have exclusive jurisdiction
pute since the dispute is between the employees on th
and the Unions and the carrier (Pullman).

The Westermayer case is but one of several similar
to that present in *Manzardo* v. *Pullman*, and the po
additional petitions for certiorari arising out of the s
the Pullman employees under the facts set forth in
and *Westmayer* cases is suggested to the Court as a
settling the issues raised in the petition for rehearing
of the petition for certiorari.

Westmayer's Petition for Certiorari embodies the
that the decision below is in direct conflict with th
decision in *Czosek* v. *O'Mara* and as well relies upon
of this Court in *Glover* v. *St. Louis, S. F. Railroad,*
324.

CONCLUSION.

For the reasons set forth above, as well as those c
the petition for writ of certiorari, petitioner pray
Court grant rehearing of the order of denial, grant
and review the judgment and opinion below, as we
an order consolidating this cause with *Westmayer*
for argument and disposition, granting Westmayer's
certiorari.

Respectfully submitted,

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CERTIFICATE OF COUNSEL.

As counsel for the petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 58(2)

.....

Counsel for Petitioner